IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 28 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE H.R.SHELAT
and
Hon'ble MR.JUSTICE H.H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION .. APPELLANT

Versus

BIJALBHAI PALABHAI VASAVA AND OTHERS .. RESPONDENTS

Appearance:
MR MD PANDYA for Petitioner
NOTICE SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE H.R.SHELAT
and
MR.JUSTICE H.H.MEHTA

Date of decision: 07/03/2000

ORAL JUDGEMENT (H.R.Shelat, J)

#. This appeal is directed against the judgment and award dated 31-3-1984 passed by the then learned Chairman of the Motor Accident Claims Tribunal (Main) at Bharuch in Motor Accident Claim Petition No. 42 of 1982 awarding compensation of Rs.42,000/- to the respondent No.1 and 2 together with interest thereon at the rate of 6% per annum.

#. Necessary facts leading the present appellant to prefer this appeal may in brief be stated. The son of respondent No.1 and 2, named Hasmukhbhai was travelling by the bus bearing No. GRT 7023 owned and run by the appellant. The bus was going from Rajpipla to Bharuch. The respondent No.3 was driving the bus rashly and negligently. After the bus left Rajpardi, the respondent No.3 lost control over the steering, as a result of which the bus went off the road and came to a halt hitting a tree on the road side, with the result, several passengers in the bus including respondent No.2 Hasmukhbhai sustained injuries. Hasmukhbahi was taken to the hospital and during the course of treatment six days after the incident, he succumbed to the injuries he sustained. The respondents Nos. 1 and 2 because of the death of their son sustained loss. To make the loss good they filed M.A.C. Petition No. 42 of 1982 in the Motor Accident Claims Tribunal (Main) at Bharuch against the appellant and the respondent No.3. The Tribunal after hearing the parties and perusing the evidence led before it partly allowed the petition and instead of awarding Rs. 2,00,000/- as claimed by the claimants, the Tribunal awarded Rs.42,000/- only. The appellant who is the owner of the bus however thought that the Tribunal was very much liberal and awarded the amounts which can be termed largesse. It has therefore preferred this appeal challenging the quantum of amount awarded and also the legality and validity thereof, restricting the claim to only Rs.20,000/-, and not to the fullest extent of Rs. 42,000/- awarded.

#. At the time of submissions the learned advocate representing the appellant has confined her submissions only to the contention regarding the quantum. According to her, the Tribunal awarded Rs. 20,000/- more towards personal expenses while assessing dependency. She contends that the Tribunal ought not to have deducted Rs. 150/- only but ought to have deducted more amount because the deceased was major at the time of accident, and had he survived he would have after being married become a family man, consequently major portion of his earnings would have been diverted for his own family rather than the respondent Nos. 1 and 2 who are his parents. The

average contribution all through out his life for his parents would have therefore come to a nominal amount and considering that nominal amount, the Tribunal ought to have assessed the compensation accordingly.

#. The Tribunal has perused the evidence on record and held that the monthly income of the deceased was Rs.450/-. Out of the same one third would have been spent by the deceased for his personal requirements and rest he must have spent for respondents Nos. 1 and 2. The Tribunal has therefore assessed the dependency at Rs.300/- p.m. and accordingly the compensation is calculated and awarded. In our view the assessment of the Tribunal is erroneous.

#. Whenever parents lose an unmarried son, compensation in that case has to be assessed bearing in mind the fact that the unmarried son the victim would have married and would have become a family-man. With the growth of the family he would have diverted his major portion of income for the well-being of his family namely, wife and children and therefore the financial help to the parents which would be initially more but gradually the same would be diminishing and therefore what can be the average help has to be ascertained considering the age of the parents and also the age of the son, and period of help.

#. In the case on hand, Hasmukhbhai who died in the motor accident was aged about 26 years while the respondent No.1 and 2 were respectively aged 52 years and 48 years. Ordinarily, a span of life can be assumed to be of 70 years. Hasmukhbhai therefore would have helped his parents for a maximum period of 22 years and he would have helped his parents initially at a higher rate but after getting married within a year or two, he would have gradually gone on curtailing the initial contribution to the parents. Considering such aspect as well as the period of help and his own income, we are of the opinion that the average help per month should be assessed at Rs.150/and not Rs.300/- as assessed by the Tribunal. The amount of dependency therefore can be assessed at Rs.1800/- and as the deceased would have helped the respondents Nos. 1 and 2 for about 22 years, multiplier 15 must be applied. Therefore, the amount of dependency comes to Rs.27,000/-.

#. Over and above such amount of dependency respondents Nos. 1 and 2 are entitled to Rs.10,000/- under the head loss to the estate of the deceased, which is ordinarily a conventional figure and also entitled to an amount of

Rs.2000/- towards funeral expenses and conveyance charges. Thus in our view respondents Nos. 1 and 2 are entitled to Rs.39000/- in all and not Rs.42,000/- as awarded by the Tribunal.

#. The difference between the amount awarded by the Tribunal and the amount enhanced by us is about Rs.3000/- which can be termed small or negligible. We therefore do not think it just and proper to interfere with the award passed. This Court came across with a decision in the case of Dy. Collector, Land Acquisition, Dharoi Canal Project v. Human Savdi Rahim Khalli 39 GLR 2356. where it is made clear that if the amount of stake is very small, the Court must abstain from interfering in the lower Court's order. Of Course in that case, the question arose in the application for condonation of delay, and it was found that when in the main matter the amount was very small it was not just and proper to condone the delay and then at last reject the main application or appeal. The same principle is applicable to the present case as the difference is very small. We are therefore of the opinion that it would be just and proper not to interfere with the award passed and deduct a nominal amount from the awarded amount.

#. For the aforesaid reasons, the appeal is required to be dismissed and is hereby dismissed accordingly.